BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate–of–Return Regulation	CC Docket No. 98–77

REPLY COMMENTS of the GENERAL SERVICES ADMINISTRATION

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Table of Contents

Page No.

Summary

GSA urges the Commission to reject requests to defer modifications in the access charge structure for rate–of–return carriers that parallel the changes adopted for price cap carriers last year. Most rate–of–return carriers serve areas with lower subscriber densities and higher access costs, so that far less local competition has developed to this point in time. Therefore, a cost–based access charge structure is even more critical for these smaller carriers to help foster full and open completion where it is economically sound.

GSA urges the Commission to adopt a system for rate–of–return carriers that employs fixed monthly charges as the primary means of recovering non–traffic sensitive costs. The access charge plan for these companies can mirror the system adopted for price cap carriers in most respects.

GSA explains, however, that the structure prescribed for price cap LECs can be improved further by reducing or eliminating unjustified disparities in the caps on subscriber line charges ("SLCs") and PICCs for different groups of users. As some carriers acknowledge, there is no economic basis for higher caps on monthly rates for additional lines or lines for business subscribers.

Finally, GSA concurs with ALLTEL that term and volume discounts enable a carrier to reflect cost savings in many customer–specific arrangements. GSA understands that the Commission has not permitted the use of volume or term discounts in the access charge structures for any group of carriers. However, it may be appropriate to revisit this policy, which may pose a barrier to open competition in less populated areas.

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The General Services Administration ("GSA") submits these Reply Comments on behalf of the customer interests of all Federal Executive Agencies ("FEAs") in response to the Commission's Notice of Proposed Rulemaking ("NPRM") released on June 4, 1998. The NPRM invites comments and replies on proposals to modify the access charge structure employed for the local exchange carriers ("LECs") subject to rate–of–return regulation by the Commission

I. INTRODUCTION

An efficient system of interstate access charges is necessary to foster open competition for telecommunications services. Last year, the Commission conducted a comprehensive review of the interstate access charge structure for price cap carriers that produced a system designed to meet the requirements for open competition in their markets. This proceeding provides the opportunity to conduct a similar review of the structures employed by LECs under rate–of–return regulation.

On August 17, 1998, GSA submitted Comments in response to the NPRM. In those Comments, GSA recommended changes in the access charge structure for rate–of–return carriers. GSA explained that the system of charges employed to compensate rate–of–return LECs for their fixed access facilities is economically inefficient. The present procedures impede the development of competition, cause end users to pay too much for many services, promote uneconomic bypass, and place unnecessary administrative burdens on interexchange carriers.

Twenty–four additional parties submitted comments in response to the NPRM. These parties included nine local exchange carriers under rate–of–return regulation, 13 associations and organizations representing local exchange carriers, and two interexchange carriers. In these Reply Comments, GSA responds to the positions advanced by these parties.

II. THE COMMISSION SHOULD NOT HEED RECOMMENDATIONS TO DEFER ACCESS CHARGE REFORM.

GSA explained in its Comments that a system of access charges reflecting the underlying cost structures is vital for the rate–of–return carriers. Revenues from interstate access charges are a much larger part of total revenues for most of these LECs. Moreover, since it is more difficult to foster competition in the less populated areas that most of these carriers serve, an economically efficient system that fosters open competition is necessary.[1]

LEC parties disagree with GSA's position that access reform should be a high priority. For example, the National Exchange Carrier Association ("NECA") asserts that the Commission should not move forward with access reform for rate–of–return carriers until it evaluates the effects of separations reform and the impacts of recent revisions in universal service rules.[2] Also, a filing by rural and co–op carriers

1 Comments of GSA, pp. 2–4.

2 Comments of NECA, pp. 1–4.

contends that resolution of universal service issues is a "prerequisite" for sustainable access charge reform.[3] In addition, the United States Telephone Association ("USTA") urges deferral of permanent changes in the access charge structure for rate-of-return LECs until the Commission completes modifications in the universal service system.[4]

The principal reason advanced by the LEC parties for deferral of reform is that the rate-of-return LECs face substantially different circumstances from those experienced by carriers under price cap regulation.[5] For example, USTA notes that rate-of-return carriers serve predominately rural and "outer suburban" areas. Most of these areas have very low subscriber densities and high access costs, so that little competition has developed to this point in time.[6] However, as technologies and markets evolve, competitors will enter the markets and target the limited number of business users currently served by rate-of-return carriers.[7] Since the competitors will be loosely regulated, they will have great flexibility in structuring and pricing their services.

GSA is convinced that the differences between rate-of-return and price cap carriers make access charge reform <u>even more important</u> for the former group. Since access revenues are a much <u>larger</u> fraction of total revenues, an efficient access charge structure is all the more critical. Moreover, since it is <u>more</u> difficult for competition to develop in more sparsely populated areas, revisions to permit access

3 Comments of the National Rural Telecom Association and the National Telephone Cooperative Association ("NRTA/NTCA"), pp. 2-4.

4 Comments of USTA, pp. 1-7.

5 *Id.*, p. 2.

6 *Id.*, pp. 3-4.

7 *Id.*

charges to reflect the structures of underlying costs are even more important so that competition can develop where it is economically sound.

Moreover, while most rate-of-return carriers believe that modifications in the existing structure of access charges are not necessary, they uniformly support increases in the magnitude of access charges. Specifically, the carriers advocate pricing flexibility that will enable them to increase their access charges. For example, ALLTEL states that the Commission should not "micromanage an out-moded system of access charge regulation while deferring consideration of fundamental issues such as pricing flexibility."[8] Also, ATU urges the Commission to implement pricing flexibility as soon as possible, and to adopt a streamlined waiver procedure to provide regulatory relief for the rate-of-return LECs now facing competition as an interim measure.[9]

The requests by rate-of return carriers for Commission action to allow increased earnings is out of line with the goals of this proceeding. In fact, if the Commission is to change earnings targets for rate-of-return carriers, reductions are required. In its comments, AT&T explains that rate-of-return carriers have enjoyed high earnings as one consequence of the fact that access charges for these carriers have become much greater than the corresponding charges for access to the price cap carriers' networks.[10] Moreover, the disparities in access charges for these two groups of carriers have become increasingly disruptive to the interexchange market.[11]

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8 Comments of ALLTEL Communications Services Corp. ("ALLTEL"), p. 2.

9 Comments of ATU Telecommunications ("ATU"), p. 2

10 Comments of AT&T Corp. ("AT&T"), p. 4.

11

GSA concurs with AT&T that the Commission should initiate a proceeding to address the return for LECs not under price caps.[12] However, in the instant proceeding, the Commission should adopt the proposals outlined in the NPRM to provide an access structure for rate–of–return LECs that is similar to the structure employed for price cap carriers.[13]

III. CONTRARY TO CLAIMS BY SOME CARRIERS, ACCESS REFORM SHOULD MIRROR THE SYSTEM EMPLOYED FOR PRICE CAP CARRIERS.

A. Fixed monthly charges should be the primary means of recovering non–traffic sensitive costs.

As GSA explained in its Comments, an important deficiency in the access charge structure for rate–of–return LECs is the procedure for recovering the non–traffic sensitive costs of dedicated facilities connecting the end user's premises with the telephone company's central office.[14] Under the system now used for rate–of–return carriers, most non–traffic sensitive costs are recovered through usage based charges.[15]

The same type of access charge structure was previously used for the LECs under price cap regulation. However, the Commission changed the structure for those carriers by increasing the caps on subscriber line charges ("SLCs") and by instituting a new charge — the presubscribed interexchange carrier charge ("PICC") — levied on interexchange carriers based on the number of lines presubscribed to them. The

12 *Id.*

13 NPRM, para. 35.

14 Comments of GSA, p. 2.

15 *Id.*, p. 3.

Commission should make corresponding modifications in the structure of access charges for rate–of–return carriers.

Some LECs contend that the procedures to recover non–traffic sensitive costs of the price cap carriers should not be employed for the smaller and mid–sized companies. For example Virgin Islands Telephone states that while it supports the Commission's goal of bringing access charges in line with the principles of cost causation, "it does not and cannot support" a system that ignores critical differences between these two groups of local exchange carriers.[16]

The Organization for the Promotion and Advancement of Small Telecommunications Companies ("OPASTCO") asserts that there are severe problems in recovering the non–traffic sensitive costs of rate–of–return carriers using flat monthly charges on lines. OPASTCO is opposed to SLCs greater than those employed for price cap carriers, and cautions against adoption of a PICC charge on interexchange carriers connected to rate–of–return carriers' networks.[17]

GSA believes that these concerns are exaggerated. When the Commission established the new access charge system for price cap carriers, it set maximum monthly charges or "caps" on both SLCs and PICCs. Caps on PICCs were subject to significant phased increases over a five–year period. The same sets of caps apply to all price cap carriers, and they apply in all regions, including those with the lowest population densities and highest costs of service. The same procedure — indeed, even the same phased caps — can be employed for rate–of–return carriers.

16 Comments of Virgin Islands Telephone Corp. ("Virgin Islands Telephone"), Summary of Comments.

17 Comments of OPASTCO, pp. 3–8.

Moreover, in establishing the new structure for price cap carriers, the Commission recognized that the SLCs and PICCs set at their respective caps might not recover all fixed costs, at least in the initial years. To address this concern, the Commission provided that local carriers could continue to employ per–minute charges to recover any residual revenue requirements during the transition period.[18] The same type of procedure for recovering residual costs could be incorporated into the access charge structure for rate–of–return carriers.

B. Differences in access charge structures are confusing and disruptive to the interexchange market.

A study by an interexchange carrier shows that the per–minute rates for rate–of–return LECs are almost three times the current rates of the price cap carriers.[19] This condition will almost certainly continue unless the Commission acts to modify the structure of access charges for rate–of–return carriers.

Geographical borders of the service territories of incumbent LECs often do not conform with the boundaries of states, municipalities, or metropolitan areas. Therefore, carriers and end users within the same general area — even the same city or county — may now be subject to different access charge structures depending on their exact street address. This practice causes confusion for carriers and end users alike. Moreover, the disparities are increasingly disruptive to the interexchange market.

As AT&T observes, high per–minute charges for origination and termination of switched message traffic has created a strong *disincentive* for interexchange carriers

18 Access Charge Reform, CC Docket No. 96–262, First Report and Order, released May 16, 1998 ("First Report and Order"), paras. 108–109.

19 Comments of AT&T, p. 5.

to serve high cost access areas.[20] As a result, only a few interexchange carriers originate traffic in the areas served by rate–of–return carriers.[21] Since the Telecommunications Act of 1996 promises the benefits of competition in all regions of the country,[22] it is important that the structure of access charges not place a barrier to the development of competition in regions served by any group of carriers.

IV. CARRIERS ACKNOWLEDGE THAT THERE IS NO ECONOMIC BASIS FOR GREATER ACCESS CHARGES FOR ADDITIONAL RESIDENCE LINES AND BUSINESS LINES.

A. Differences in monthly line rates introduce additional cross–subsidies in the access charge structure.

The system of access charges that the Commission prescribed for price cap carriers is pro–competitive, but that structure can be improved further for use by rate–of–return carriers. As GSA explained in its Comments, differences in the caps for different types of access lines introduce a cross–subsidy into the rate structure that is antithetical to competition and inequitable to end users.[23]

For LECs under price cap regulation, the Commission increased the SLC caps for some lines. Previously, the SLCs were capped at $3.50 per month for all residence and single–line business lines, and $6.00 per month for multi–line business users. The Commission did not modify the caps for primary residence or single–line business lines in 1997, but authorized a 50 percent increase in the cap for multi–line businesses to $9.00 per month, with annual adjustments for inflation.[24] Also, the

20 *Id.*, p. 9.

21 *Id.*

22 Telecommunications Act of 1996, Pub. L. No. 104–104, 110 Stat. 56, amending the Communications Act of 1934, 47 U.S.C. § 151 *et seq.*

23 Comments of GSA, pp. 7–9.

24 First Report and Order, para. 78.

Commission set a procedure for increasing the monthly SLC cap for non–primary residence lines until that charge equals the ceiling for multi–line business users.[25] Under this procedure, the cap for non–primary residence lines increased from $3.50 a month to $5.00 a month on January 1, 1998, and will increase by $1.00 each year until 2002.

The Commission also established different caps for the monthly charges based on presubscribed residence and business access lines for LECs under price cap regulation. The Commission capped the PICCs for primary residence and single–line business lines at $0.53 per month for the initial year, starting January 1, 1998.[26] In subsequent years, this monthly cap could be increased by $0.50 each year until revenues from the SLCs and PICCs collectively met the carrier's common line revenue requirement.[27]

Furthermore, the Commission set initial ceilings of $1.50 per month for the PICC on non–primary residential lines and $2.75 per month on multi–line business lines, with increases in subsequent years.[28] The PICCs for non–primary residential and multi–line business lines also may be adjusted annually for inflation. These PICCs may increase by as much as $1.00 and $1.50, respectively, in each year until revenues from the SLCs and PICCs collectively meet the carrier's common line revenue requirement.[29]

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25 *Id.*

26 *Id.*, para. 94.

27 *Id.*

28 *Id.*, para. 59.

29 In setting the PICCs for price cap carriers, the Commission anticipated that changes in telecommunications volumes and cost functions would eventually permit reductions in PICC caps, even if all of the common line revenue requirement was to be met by SLCs and PICCs. When overall reductions were possible, the Commission contemplated that price cap LECs would initially reduce PICCs for multi–line business lines in order to ameliorate disparities

As GSA explained in its Comments, the access charges adopted for price cap LECs have disparate impacts on business and residence users.[30] In the initial year, the maximum total SLC and PICC for a primary residential line increased from \$3.50 to \$4.03.[31] In contrast, the maximum total for a multi–line business line increased from \$6.00 to \$11.75.[32] The initial increase of \$5.75 monthly for multi–line business lines is more than 10 times the \$0.53 monthly increase for primary residential lines. The result is a business charge nearly three times that for residence service, in spite of the fact that there is no cost difference at all.

As GSA explained, differences in the monthly access charges for different groups of users do not reflect differences in the costs of the access facilities required to service them. As a minimum step, GSA urged the Commission to prescribe identical SLC and PICC caps for business multi–lines and non–primary residence lines.[33]

B. One proposal in this proceeding sharply reduces differences in the caps on monthly per–line charges over a three–year period.

None of the commenting parties specifically address the disparity between caps for business and residence services, but several parties recommend that differences in the monthly charges for initial and additional lines be eliminated. Moreover, a carrier association described a plan that reduces the disparities among caps over a three–year period.

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between these charges and those applying to non–primary residential lines. *See* First Report and Order, para. 59 and NPRM, para. 31.

30 Comments of GSA, p. 8.

31 Previously a SLC of \$3.50 and no PICC, with no change in the SLC but a PICC of \$0.53.

32 Previously as SLC of \$6.00 and no PICC, with the SLC increased to \$9.00 and a PICC of \$2.75.

33 Comments of GSA, p. 9.

The distinction between access charges for additional and initial lines is a special concern to rate-of-return carriers because second lines are the major source of access line growth in many rural communities.[34] Moreover, as an association of carriers serving these areas observed, it is very difficult for a LEC to explain why a customer must pay more for additional lines.[35]

One carrier association outlines a system of access charges that significantly narrows the gap between monthly caps over a period of three years.[36] The system is described by specifying the access charges effective on July 1 of each of the years 1998 through 2001, inclusive. During the entire period, a SLC cap of $3.50 per month would be employed for primary residence, secondary residence, and single business lines.[37] The initial SLC cap on business multi-lines would be $7.14, which is substantially less than the $9.00 cap now used for business multi-lines of price cap carriers.[38] Moreover, the $7.14 monthly SLC cap would be phased down to $7.01 by July 2001.[39]

The system is even more effective in eliminating the disparities in PICCs. In the initial year of the plan, PICCs would be $.53 per month for primary residence, secondary residence, and single business lines and $2.64 per month for business multi-lines. These charges are about the same as the rates currently specified for price cap carriers.[40] However, instead of increasing the cap for business multi-lines,

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34 Comments of NRTA/NTCA, p. 27.

35 *Id.*

36 Comments of USTA, Attachment B.

37 *Id.*

38 *Id.*

39 *Id.*

40 *Id.*

this plan calls for reductions in the PICC caps for business multi–lines, and increases in the residence caps. By July 2002, the cap would be $1.62 monthly for primary residence, secondary residence, and single business lines, and only slightly more — $1.84 a month — for business multi–lines.[41]

GSA urges the Commission to consider adopting a phased schedule of this type to eliminate, or at least reduce, unjustified disparities in the caps on SLCs and PICCs for all carriers.

V. FLEXIBLE CONTRACTING AUTHORITY IS IMPORTANT FOR RATE–OF–RETURN CARRIERS.

In its comments in response to the NPRM, one rate–of–return carrier urged the Commission to consider the importance of flexible contracting authority in evaluating the regulatory requirements for smaller and mid-sized carriers. While not directly relating to access charge reform, this issue has a common aim with the others addressed in this proceeding — to recommend steps that the Commission should take to improve the competitive environment for rate–of return carriers and their customers.

ALLTEL notes that term and volume discounts enable carriers to pass through cost savings realized when providing services through customer–specific arrangements.[42] Therefore, as ALLTEL explains, these discounts will help promote efficient utilization of telecommunications resources.[43]

GSA understands that the Commission has not permitted the use of volume or term discounts in the access charge structures for any group of carriers. However, it may be appropriate to revisit this policy, at least with respect to rate–of–return carriers,

41 *Id.*

42 Comments of ALLTEL, p. 7.

43 *Id.*

because the existing policy may create a barrier to open competition in less populated areas. Consequently, GSA urges the Commission to establish a proceeding to evaluate the merits of term and volume discounts in access structures.

VI. CONCLUSION

As a major user of telecommunications services, GSA urges the Commission to modify the access charge system for LECs subject to rate–of–return regulation as described in these Reply Comments.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, MICHAEL J. ETTNER, do hereby certify that copies of the foregoing "Reply Comments of the General Services Administration" were served this 17th day of September, 1998, by hand delivery or postage paid to the following parties.

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